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NOT ASSIGNED

2811

DATE MAILED:

12/08/99

An Application Number and Filing Date have been assigned to this application. The items indicated below, however, are missing. Applicant is given TWO MONTHS FROM THE DATE OF THIS NOTICE within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). If any of items 1 or 3 through 5 are indicated as missing, the SURCHARGE set forth in 37 CFR 1.16(e) of ☐ \$65.00 for a small entity in compliance with 37 CFR 1.27, or ☒ \$130.00 for a non-small entity, must also be timely submitted in reply to this NOTICE to avoid abandonment.

If all required items on this form are filed within the period set above, the total amount owed by applicant as a ☐ small entity (statement filed) ☒ non-small entity is \$ 130.00.

- ☐ 1. The statutory basic filing fee is:
- ☐ missing.
- ☐ insufficient.

Applicant must submit \$_____ to complete the basic filing fee and/or file a small entity statement claiming such status (37 CFR 1.27).

- ☐ 2. The following additional claims fees are due:
- \$ _____ for _____ total claims over 20.
- \$ _____ for _____ independent claims over 3.
- \$ _____ for multiple dependent claim surcharge.

Applicant must either submit the additional claim fees or cancel additional claims for which fees are due.

- ☒ 3. The oath or declaration:
- ☐ is missing or unsigned.
 - ☐ does not cover the newly submitted items.

☐ -does not cover the newly submitted items.
An oath or declaration in compliance with 37 CFR 1. 63, including residence information and identifying the application by the above Application Number and Filing Date is required.

- ☐ 4. The signature(s) to the oath or declaration is/are by a person other than inventor or person qualified under 37 CFR 1.42, 1.43 or 1.47.

A properly signed oath or declaration in compliance with 37 CFR 1.63, identifying the application by the above Application Number and Filing Date, is required.

- ☐ 5. The signature of the following joint inventor(s) is missing from the oath or declaration:

An oath or declaration in compliance with 37 CFR 1.63 listing the names of all inventors and signed by the omitted inventor(s), identifying this application by the above Application Number and Filing Date, is required.

- ☐ 6. A \$50.00 processing fee is required since your check was returned without payment (37 CFR 1.21(m)).
- ☐ 7. Your filing receipt was mailed in error because your check was returned without payment.
- ☐ 8. The application was filed in a language other than English.
- Applicant must file a verified English translation of the application, the \$130.00 set forth in 37 CFR 1.17(k), unless previously submitted, and a statement that the translation is accurate (37 CFR 1.52(d)).*

- ☐ 9. OTHER:

Direct the reply and any questions about this notice to "Attention: Box Missing Parts."

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

02/11/2000 KZENDIE 00000123 09436598 130.00 00



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: ASSISTANT COMMISSIONER FOR PATENTS

Washington, D.C. 20231

09/436,598

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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14

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

See attached communication.

David E Graybill
Primary Examiner
Art Unit: 2814

Art Unit: 2814

Applicant's request in the Letter filed 8-09-01 that the Interview Summary filed 8-02-01 be withdrawn and amended, and that the Declaration filed under 37 CFR 1.132 and the Response under 37 CFR 1.116 both be entered for appeal has been fully considered and is denied for the reasons supra.

Contrary to applicant's assertions otherwise, it is respectfully maintained that the interview summary is complete and accurate, and that it does not contradict the Advisory Action filed 8-03-01. To further clarify, as agreed to during the interview, the Request for Reconsideration (also called "the Response" by applicant) was considered and submitted for entry on 8-02-01. However, as indicated in the Advisory Action, the Declaration filed 7-02-01 was not considered. Moreover, during the interview, the Declaration was not discussed, and no agreement was made concerning the Declaration. It is respectfully noted that the term "Request for Reconsideration (Response)" was used during the interview consistent with the meaning of the term as used separately and distinctly from the term "Declaration," as used in the MPEP, the Advisory Action, and applicant's Letter. Therefore, it is respectfully submitted that there is no reasonable grounds for confusion as to the meaning of the terms, or to the content of the interview, the Interview Summary or the Advisory Action.

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In any case, it is respectfully submitted that proceedings during an interview do not absolve applicant of the duty to submit a proper response to an Office action. As set forth in 37 C.F.R. § 1.116:

The admission of, or refusal to admit, any amendment after final rejection, and any related proceedings, will not operate to relieve the application or patent under reexamination from its condition as subject to appeal or to save the application from abandonment under 1.135.

Furthermore, as set forth in 37 C.F.R. § 1.2:

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. **No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.**
[emphasis added]

Of course, any confusion which might have arisen from any action by the Office is sincerely regretted.

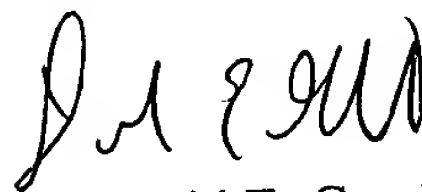
Any telephone inquiry of a general nature or relating to the status (MPEP 203.08) of this application or proceeding should be directed to the group receptionist whose telephone number is 703-308-1782.

Any telephone inquiry concerning this communication or earlier communications from the examiner should be directed to David E. Graybill at (703) 308-2947. Regular office hours: Monday through Friday, 8:30 a.m. to 6:00 p.m.

The fax phone number for group 2800 is 703/305-3431.

Application/Control Number: 09/436,598

Art Unit: 2814



David E. Graybill
Primary Examiner
Art Unit 2814

D.G.

21-Aug-01